

REMARKS

The present amendment is submitted in response to the final Office Action dated January 25, 2010, which set a three-month period for response, making this amendment due by April 25, 2010.

Claims 1-4 and 6 are pending in this application

In the final Office action, the drawings were objected to for not showing every feature of the invention specified in the claims, specifically, the "spring-elastic valve stem" of claims 1 and 2 and the "decorative elements" of claim 5. The specification and claims were objected to for various informalities. Claims 1-6 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,096,002 to Focht in view of U.S. Patent No. 3,865,283 to Hayes. Claims 2-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Focht in view of Hayes and further in view of U.S. Patent No. 3,156,382 to Michell.

Turning first to the objection to the drawings, Fig. 5 has been amended and is included herewith. As a common measure in the field of technical drawings, elastic features of an element are shown in an uncompressed manner (i.e., with straight lines) as well as in a compressed situation (i.e., with dashed lines). In Fig. 5, the compressed situation has been added by dashed lines. Due to the recess 16, it would be clear to the practitioner skilled in the art that when applying a pressure on the actuation button, shear forces occur within the foam

head. Since recess 16 defines a selective, artificial region of increased deformability, the exerted pressure leads to a deformation focused at this region of increased deformability. As a consequence, the recess is narrowed as shown in the dashed lines. The deformation shown in dashed lines is a feature inherent to the design shown in Fig. 5. Therefore, the deformation shown in dashed lines is originally disclosed to the practitioner of ordinary skill in the art.

Regarding the objection to the drawings and specification for lack of antecedent basis, with amended claims 1 and 2, the valve stem is defined without including any feature concerning elasticity. Thus, figures not showing elastic properties would not contradict the claims.

The Applicants note, however, that Fig. 3 does show an elastically deformed valve stem.

Objected-to claim 5 has been canceled.

With the deformation shown in amended Fig. 5, which is readily understandable to one skilled in the art, the annular spring 17 formed by the lower edge and the recess 16 located therein is represented in the drawings.

Regarding claims 1 and 2, the term "spring-elastic" is a literal translation from the original German application of the term "federelastisch". This term describes the property of an element being elastic in the sense of a spring. It does not necessarily define a spring as a component of the elastic. Rather, it defines only the elastic properties. Since "spring" and "elastic" are both common words, the rather redundant composition of "spring" and "elastic" to "spring-

elastic" is clear in the context of the description, in particular with regard to amended Fig. 5.

Again, since claim 5 has been canceled, the objection to the term "decorative parts" is obviated.

Objected-to claim 6 has been amended to change "gap" to "cap".

Regarding the rejection of the claims as being indefinite, in the amended claims, only parts of the foam head itself are defined. In particular, the foam dispensing opening of the foam head is defined by its design property to be seatable on a valve stem. No further definition regarding the valve stem is provided in the claims.

Furthermore, the diameters of the lower region and the inner crimped edge are more clearly defined in the amended claims.

In addition, amended claims 1 and 2 now define that the lower edge 15 provided with at least one recess 16 provides an annular spring. It is clear from the recitation of the claim itself that the recess in the lower edge increases the flexibility of the foam head. This, in turn, has the effect of an annular spring, which is formed by the lower edge. In particular, amended Fig. 5 shows how the annular spring is formed.

Support for the amendments to claim 1 can be found on page 2, lines 22-29. Support for the amendments to claim 2 can be found on page 3, lines 27-34.

Regarding the rejection of claims 4 and 5 as indefinite, amended claim 4 now defines the grooves as slip proof. These grooves are clearly shown in Figs.

1, 3, 6, 8, and 9 at reference numeral 6, and the wording "slip proof" corresponds to the original wording in the specification on page 4, line 9.

Turning next to the substantive rejections of the claims, amended claims 1 and 2 defines the following features:

1) the actuation button 6 is diametrically opposite to an outer rib 13. Thus, when pressing the actuation button, the outer rib and the lower side 14 of the crimped edge 3 form a pivoting element with a pivoting point defined by the outer rib 13 and the lower side 14;

2) In addition, the outer rib 13 and the crimped edge 3 form a snap connection, wherein the outer rib engages beneath the outer rib at the first time of pressing the actuation button. Due to the design as a rib, the outer rib 13 can be released from the crimped edge and can be reused for another propellant container (see page 1, lines 16-18).

3) The lower edge 15 of the lower portion 9 has a recess 16, which significantly increases the mechanical flexibility of this region. Thus, when a force is applied to the actuation button which exceeds the flexibility of the valve stem 8, the recess (i.e., the annular spring formed by the recess 16 and lower edge 15) accommodates the excessive mechanical stress (and the excessive deformation). This results in a greater degree of comfort in handling the foam head and prevents the foam head from damage.

The above elements (pivoting element and snap connection provided by outer rib as well as the annular spring provided by the recess in the lower edge) are provided by very simple structural features of the foam head itself. No

additional mechanical elements are necessary to provide the pivoting element, the snap connection, and the annular spring.

Furthermore, these components 1 – 3 above are provided by one and the same element, which avoids any accidental disassembling of the parts. In comparison to other designs with a plurality of individual elements, the structural integrity of the device as defined by the claims of the present application is substantially increased. In addition, material costs are substantially decreased compared to the devices of the cited references.

In the cited patent to Focht, no spring element for accommodating excess actuation force is shown, as the Examiner admits.

In Hayes, Fig. 6 shows slots within a skirt 52b in order to allow "...limited flexing movement towards and away from one another during assembly" (column 5, lines 4-9). Therefore, Hayes does not show or disclose an annular spring allowing accommodation of excess actuation force, but merely shows slots providing limited flexibility when assembling forces are exerted onto the device. In addition, the slots are provided in an additional element of the device of Hayes, in contrast to the present invention, which provides the annular spring element using a necessary part of the foam head itself.

The Applicants note further that neither the head shown in Focht nor the head shown in Hayes can be detached from the propellant container. Neither of these documents therefore renders obvious providing a head that can be reused.

The third cited reference to Michell shows neither an element corresponding to the annular spring of the present invention nor a reusable foam

head. Rather, Michell relates to a device with an elastic overcap, in contrast to a foam head. The only function of the overcap is to cover the valve. The overcap is provided to be put on a container cap 13 (see column 2, line 15) of the aerosol container. No application head is disclosed in Michell (omitted valve and application head: column 1, lines 56-57, column 3, lines 17-18 and lines 24-26; Figs. 1-5).

Therefore, the present invention as defined in the amended claims cannot be derived from any combination of the cited art.

Because the prior art does not suggest all of the features of the claimed invention, nor suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01.

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,
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